

Message Text

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PAGE 01 STATE 012948

53

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TO USMISSION USUN NEW YORK PRIORITY

INFO USMISSION USBERLIN

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AMEMBASSY BERLIN

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C O R R E C T E D C O P Y (OMISSION LINE 3, LAST SUB-PARA,
PARA 2)

E.O. 11652: GDS

TAGS: PFOR, WB, EB, GW, GE, UN

SUBJECT: UNSYG VISIT TO BERLIN

REF: A) USUN 74; B) USUN 140

1. IN VIEW OF PLANNED APPROACHES TO BRIEF UNSYG WALDHEIM
ON STATUS OF BERLIN DESCRIBED REFTTEL B, USUN NEED NOT SEEK
OUT SYG TO MAKE SPECIAL PRESENTATION TO HIM. USUN SHOULD,
HOWEVER, CONFER WITH FRENCH, UK AND FRG MISSION REPS ON
NATURE OF THEIR PRESENTATIONS, AND, AS APPROPRIATE, SUGGEST
INCLUSION OF POINTS SET FORTH PARAS 2-5 BELOW. DEPARTMENT
SECRET

SECRET

PAGE 02 STATE 012948

ALSO AGREES THAT USUN SHOULD TAKE ADVANTAGE OF ANY

APPROPRIATE OCCASION WHICH MAY ARISE TO DISCUSS BERLIN WITH SYG OR HIS STAFF, AND ENCOURAGE SYG NOT TO TAKE ANY POSITION OR SUBSCRIBE TO ANY STATEMENT OR COMMUNIQUE, WHICH MIGHT SERVE TO GIVE CREDENCE TO GDR CLAIMS OF SOVEREIGNTY OVER EAST BERLIN, OR PREJUDICE WELL KNOWN ALLIED LEGAL POSITIONS ON BERLIN. A FEW POINTS WHICH COULD BE USEFULLY MADE WHEN DISCUSSING THE STATUS OF BERLIN WITH SYG OR HIS STAFF ARE SET OUT BELOW.

2. BERLIN--ALL OF BERLIN--LEGALLY REMAINS TERRITORY OCCUPIED BY THE FOUR WARTIME ALLIES IN ACCORDANCE WITH AGREEMENTS REACHED BOTH BEFORE THE END OF WORLD WAR TWO AND IMMEDIATELY FOLLOWING IT.

--THE RIGHTS OF THE UNITED STATES AND OTHER ALLIES WITH REGARD TO THE JOINT OCCUPATION OF BERLIN ARE DERIVED FROM THE TOTAL DEFEAT AND UNCONDITIONAL SURRENDER OF GERMANY.

--SPECIFIC AGREEMENT ON THE OCCUPATION OF BERLIN AS A SPECIAL AREA WAS REACHED IN THE EUROPEAN ADVISORY COMMISSION SEPTEMBER 12, 1944, AND SIGNED BY THE US, UK, AND ULTIMATELY, BY THE USSR (AT YALTA FEBRUARY 6, 1945): QUOTE GERMANY WITHIN HER FRONTIERS--AS THEY WERE ON THE 31ST OF DECEMBER 1937 WILL, FOR THE PURPOSES OF OCCUPATION, BE DIVIDED INTO THREE ZONES (LATER AMENDED TO FOUR TO INCLUDE THE FRENCH), ONE OF WHICH WILL BE ALLOTTED TO EACH OF THE THREE (FOUR) POWERS, AND A SPECIAL BERLIN AREA WHICH WILL BE UNDER JOINT OCCUPATION BY THE THREE (FOUR) POWERS UNQUOTE.

--THE LEGAL STATUS OF BERLIN, INCLUDING FOUR POWER RESPONSIBILITY FOR ALL OF BERLIN CAN ONLY BE CHANGED BY JOINT FOUR POWER AGREEMENT, AS PROVIDED BY JUNE 5, 1945 DECLARATION OF THE DEFEAT OF GERMANY AND THE ASSUMPTION OF SUPREME AUTHORITY BY THE ALLIED POWERS. NO AGREEMENT HAS EVER BEEN REACHED BY THE FOUR RESPONSIBLE POWERS ALTERING BERLIN'S STATUS.

--THE 1972 BERLIN QUADRIPARTITE AGREEMENT DID NOT CHANGE THE FUNDAMENTAL STATUS OF BERLIN AS A WHOLE. PART ONE
SECRET

SECRET

PAGE 03 STATE 012948

OF THE AGREEMENT SETS FORTH THE PURPOSE AND SCOPE OF THE AGREEMENT; SPECIFICALLY IT RECOGNIZES THAT EXISTING RIGHTS AND RESPONSIBILITIES (WHICH WOULD INCLUDE RIGHTS AND RESPONSIBILITIES RELATED TO THE OCCUPIED STATUS OF ALL OF BERLIN) REMAIN UNCHANGED, AND CANNOT BE CHANGED UNILATERALLY.

--IT MIGHT ALSO BE NOTED THAT THE FINAL QUADRIPARTITE

PROTOCOL SIGNED JUNE 3, 1972, BY THE FOUR POWERS
REITERATES THAT NEITHER THE QA NOR THE FINAL QUADRIPARTITE
PROTOCOL AFFECTS FOUR POWER AGREEMENTS AND DECISIONS IN
AND AROUND BERLIN PREVIOUSLY CONCLUDED OR REACHED, AND
THAT IT WAS WITHOUT PREJUDICE TO THEIR LEGAL POSITIONS.

--IN ANY DISCUSSION OF THE CURRENT BERLIN SITUATION USUN
MAY WISH TO EMPHASIZE THAT IN OUR VIEW THE QA HAS
FUNCTIONED WELL. CIVILIAN SURFACE TRAVEL BETWEEN THE
FRG AND BERLIN HAS INCREASED BY 67 PERCENT IN JUST OVER
TWO AND A HALF YEARS. THE FRG AND GDR CONTINUE TO SEEK
WAYS TO IMPROVE PHYSICAL COMMUNICATIONS BETWEEN BERLIN
AND THE FRG. MANY PRACTICAL STEPS TO IMPROVE THE LOCAL
SITUATION IN AND AROUND BERLIN, INCLUDING FREE MOVEMENT
BY WEST BERLINERS TO THE GDR AND EAST BERLIN HAVE BEEN
TAKEN.

4. THERE HAVE, HOWEVER, BEEN SOME DARK SPOTS.
UNFORTUNATELY, THE FREEDOM OF RESIDENTS FROM EAST BERLIN
TO VISIT THE WESTERN SECTORS OF BERLIN (WSB) HAS NOT
IMPROVED SIGNIFICANTLY. EQUALLY DISAPPOINTING HAVE BEEN
SOVIET AND GDR EFFORTS TO RESTRICT THE DEVELOPMENT OF
LEGITIMATE TIES BETWEEN THE FRG AND THE WESTERN SECTORS
OF BERLIN, INCLUDING THOSE SPECIFICALLY PROVIDED FOR IN
THE QA. IN THIS LATTER CATEGORY ARE THE RIGHTS
GRANTED BY THE THREE WESTERN ALLIES--AND ACKNOWLEDGED
BY THE SOVIET UNION IN ANNEX IV OF THE QA: TO REPRESENT
THE WESTERN SECTORS IN INTERNATIONAL ORGANIZATIONS,
TO EXTEND TO THE WSB TREATIES AND INTERNATIONAL CONVEN-
TIONS AND PROTOCOLS, AND TO PROVIDE CONSULAR SERVICES
FOR PERMANENT RESIDENTS OF WEST BERLIN ABROAD. QA
PROVISIONS REFLECT INTIMATE INTERRELATIONSHIP OF WSB
AND FRG WHICH SOVIETS AND GDR DENY BY MISQUOTING AND
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SECRET

PAGE 04 STATE 012948

MISCONSTRUING LANGUAGE OF AGREEMENT AND RELATED
DOCUMENTS.

5. ALTHOUGH THE PROBLEM OF MAINTAINING AND DEVELOPING
FEDERAL PRESENCE IN WEST BERLIN HAS ALSO BEEN
REPEATEDLY CHALLENGED BY GDR AND SOVIETS IN DIRECT
DEALING WITH THE ALLIED POWERS AND THE FRG, AND SYG
SHOULD BE AWARE OF THAT FACT, WE WOULD THINK THIS IS
LESS LIKELY TO BE AN ISSUE WHICH WOULD COME UP IN THE
CONTEXT OF HIS VISIT. KISSINGER

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